UNITED NATIONS

General Assembly

FORTY-SIXTH SESSION

Official Records

SIXTH COMMITTEE
1st meeting
held on
Tuesday, 17 September 1991
at 5.40 p.m.
New York

SUMMARY RECORD OF THE 1st MEETING

Temporary Chairman: Mr. SHIHABI (President of the General Assembly)

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ELECTION OF THE CHAIRMAN

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91-56176 3831S (E)

Distr. GENERAL
A/C.6/46/SR.1
19 September 1991

ORIGINAL: ENGLISH

The meeting was called to order at 5.40 p.m.

ELECTION OF THE CHAIRMAN

1. Mr. KUKAN (Czechoslovakia) nominated Mr. Comissario Afonso (Mozambique) for the office of Chairman.

2. In the absence of further nominations and in accordance with rule 103 of the rules of procedure, the Temporary Chairman said that he would take it, if he heard no objection, that the Committee wished to elect Mr. Comissario Afonso (Mozambique) Chairman.

3. Mr. Comissario Afonso (Mozambique) was elected Chairman by acclamation.

The meeting rose at 5.45 p.m.

UNITED NATIONS

General Assembly

FORTY-SIXTH SESSION

Official Records

SIXTH COMMITTEE
2nd meeting
held on
Friday, 20 September 1991
at 3 p.m.
New York

SUMMARY RECORD OF THE 2nd MEETING

Chairman: Mr. AFONSO (Mozambique)

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ELECTION OF OFFICERS

STATEMENT BY THE PRESIDENT OF THE INTERNATIONAL COURT OF JUSTICE

ORGANIZATION OF WORK

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91-56194 3850S (E)

Distr. GENERAL
A/C.6/46/SR.2
25 September 1991

ORIGINAL: ENGLISH

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The meeting was called to order at 3.25 p.m.

STATEMENT BY THE CHAIRMAN

1. The CHAIRMAN said that the current session of the General Assembly was taking place at a time when significant changes had occurred in various parts of the world; those changes highlighted the role of international law in regulating relations among States, and served as a reminder that international law must be continually updated and progressively developed to meet new challenges.

2. The Sixth Committee was one of the forums in which legal approaches to the issues facing the international community could be discussed. In his view, the debate on the various agenda items should focus on the need to adjust international law to ever-changing realities, and to devise means of applying the Charter of the United Nations as an effective instrument for achieving and maintaining international peace and security, and for preventing international disputes or settling them by peaceful means, on the basis of the concept of the sovereign equality of States.

ELECTION OF OFFICERS

3. Mr. MIRZAEE-YENGEJEH (Islamic Republic of Iran) said that the Group of Asian States, at its meeting on 13 September 1991, had nominated Mr. Asif Hussain (Pakistan) for the office of Vice-Chairman. However, after consultations with the Chairman and with other regional groups, and in order to avoid hampering the Committee's work, the Group of Asian States had decided to withdraw Mr. Hussain's nomination, on the understanding that the Chairman of the Working Group on the United Nations Decade of International Law would be elected from among the members of the Group. Pakistan had already expressed interest in that office.

4. The CHAIRMAN said that if he heard no objection, he would take it that the Committee wished to elect Mr. Têtu (Canada) and Mr. Sandoval (Ecuador) as Vice-Chairmen, and Mr. Nedelchev (Bulgaria) as Rapporteur.

5. It was so decided.

STATEMENT BY THE PRESIDENT OF THE INTERNATIONAL COURT OF JUSTICE

6. The CHAIRMAN welcomed the President of the International Court of Justice, Sir Robert Jennings, and the Registrar of the Court, Mr. Eduardo Valencia-Ospina. Their presence testified to the Court's continuing interest in the Committee's work.

7. Sir Robert JENNINGS (President of the International Court of Justice) said that there was a strong link between the Court and the Sixth Committee, as both were concerned with international law, on which all hopes for peace

(Sir Robert Jennings)

and stability depended. The Court interpreted and applied international law, while the Committee made an important contribution to its progressive development. There were currently more cases before the Court than ever before, and its work would be increasingly integrated with that of the Committee.

ORGANIZATION OF WORK

8. The CHAIRMAN said that the document on the organization of work (A/C.6/46/L.1), which took into account the results of the informal consultations conducted by the Legal Counsel on 12 September 1991, would be available within a few days. The General Assembly had allocated to the Sixth Committee an additional item entitled "Exploitation of the environment as a weapon in times of armed conflict and the taking of practical measures to prevent such exploitation" (A/46/141), which must be included in the programme of work. He therefore suggested that the Committee should postpone adoption of the agenda to the following meeting, and should take a decision at the current meeting as to which items should be considered first and on which dates.

9. In that connection, he recalled that the report of the Secretary-General on the progressive development of the principles and norms of international law relating to the new international economic order (agenda item 126) (A/46/352) had been available since 12 September 1991; that an addendum to that document, containing an additional reply, would be distributed no later than Tuesday, 24 September 1991; and that agenda item 134 (Consideration of the draft articles on most-favoured-nation clauses) required no pre-session documentation, whereas the report of the United Nations Commission on International Trade Law (agenda item 129) (A/46/17) had been issued only on 16 September 1991.

10. Accordingly, he suggested that the Committee should first take up agenda item 126 and then move on to items 134 and 129.

11. Mr. ROSENSTOCK (United States of America) said that for a number of years, the Committee had begun its work by considering the report of the United Nations Commission on International Trade Law (UNCITRAL), an item on which there was broad agreement. In departing from that practice, the Committee risked creating future difficulties with regard to the order of consideration of agenda items. Accordingly, he thought that it might be preferable to begin with the UNCITRAL report and then to proceed as suggested by the Chairman.

12. The CHAIRMAN said that the action he had suggested would not set a precedent for future years.

13. Mr. VAN de VELDE (Netherlands) said he agreed with the United States representative that it was advisable to follow established practice, provided

(Mr. Van de Velde, Netherlands)

that the relevant documentation was readily available. As the UNCITRAL report had not been available until recently, his delegation and others had urged that its consideration should be postponed so as to allow for adequate preparation.

14. The CHAIRMAN said that, if he heard no objection, he would take it that the Committee agreed to proceed with consideration of the agenda items in the order which he had suggested.

15. It was so decided.

16. The CHAIRMAN suggested that the Committee should begin its substantive work on Wednesday, 25 September 1991, at 10 a.m. The programme for the first week would be: agenda item 126, 25-26 September; agenda item 134, 26 September; agenda item 129, 26-30 September.

17. Mr. WOOD (United Kingdom) said that he would prefer the Committee to begin its deliberations on Monday, 23 September. It was to be hoped that no precedent would be set by the Committee's action regarding the order of consideration of items at the current session. He would also appreciate it if the UNCITRAL report could be introduced early in the week.

18. Mr. STEFANINI (France) said that he shared the view expressed by the previous speaker.

19. The CHAIRMAN said that an effort would be made to have the UNCITRAL report introduced on Thursday, 26 September, after the conclusion of consideration of agenda item 134, with discussion to begin on the following day. The suggestion that the Committee's work should begin on 25 September had been intended to accommodate those delegations which had requested more time to prepare.

20. Mr. WOOD (United Kingdom) said it was his understanding that the suggestion had been made solely because of the exceptional circumstances prevailing at the current session, such as the lateness of documentation, and not simply for the convenience of some delegations.

21. The CHAIRMAN said that, if he heard no objection, he would take it that the Committee agreed to adopt the schedule which he had outlined.

22. It was so decided.

The meeting rose at 4 p.m.

UNITED NATIONS

General Assembly

FORTY-SIXTH SESSION

Official Records

SIXTH COMMITTEE
3rd meeting
held on
Wednesday, 25 September 1991
at 10 a.m.
New York

SUMMARY RECORD OF THE 3rd MEETING

Chairman: Mr. AFONSO (Mozambique)

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ORGANIZATION OF WORK

AGENDA ITEM 126: PROGRESSIVE DEVELOPMENT OF THE PRINCIPLES AND NORMS OF INTERNATIONAL LAW RELATING TO THE NEW INTERNATIONAL ECONOMIC ORDER

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91-56217 3856S (E)

Distr. GENERAL
A/C.6/46/SR.3
2 October 1991
ENGLISH
ORIGINAL: FRENCH

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The meeting was called to order at 10.20 a.m.

ORGANIZATION OF WORK (A/C.6/46/L.1 and A/C.6/46/1)

1. The CHAIRMAN drew the Committee's attention to the note by the Secretariat on the organization of work (A/C.6/46/L.1), which contained a suggestion regarding the order of consideration of agenda items and the dates of their consideration. If the Committee accepted the suggested timetable and implemented it, as was customary, with a reasonable measure of flexibility, the Committee would have a good chance of successfully fulfilling its mandate. If there were no objections, he would take it that the Committee wished to approve the suggested timetable.

2. It was so decided.

3. With regard to the establishment of subcommittees or working groups and the holding of consultations for the purpose of facilitating the work of the Committee, he suggested that all the subsidiary organs should complete their work before 28 October, the day on which the Committee would begin its consideration of the report of the International Law Commission. Since the Commission had presented three sets of draft articles on such important items as jurisdictional immunities of States and their property, the law of the non-navigational uses of international watercourses and a draft Code of crimes against the peace and security of mankind, the consideration of the Commission's report might take more time than usual, and he doubted whether the subsidiary organs would be able to meet during that period.

4. In accordance with General Assembly resolution 171 B of 9 December 1988, the Subcommittee on Good-Neighbourliness had been given the task of elaborating a document on the development and strengthening of good-neighbourliness between States, and he suggested that the Subcommittee should begin its work on 1 October. He had asked Mr. Sandoval, the Vice-Chairman of the Committee, to coordinate consultations on that issue. He also suggested that consultations on the status of the diplomatic courier and the diplomatic bag not accompanied by diplomatic courier should begin around 8 October, and he would ask Mr. Mikulka to coordinate those consultations.

5. The Committee would be able to take a decision regarding a working group on the United Nations Decade of International Law, as well as the date for the start of its work, as soon as the Secretary-General's report on the subject became available.

6. The consultations that he had held on the question of where to consider the Secretary-General's report on the rules of the conciliation of disputes between States had brought to light differences of opinion among delegations on whether the report should be considered under the agenda item entitled "United Nations Decade of International Law" or the agenda item entitled "Report of the Special Committee on the Charter of the United Nations and on

the Strengthening of the Role of the Organization". However, since the consideration of the latter item should require relatively less time owing to the fact that the Special Committee had almost completed its mandate, he strongly suggested that the Committee should take a decision on where to discuss the Secretary-General's report on the rules of conciliation when it took up its consideration of the report of the Special Committee on the Charter. That would not prevent any delegation from commenting, if it so wished, on the substance of the rules of conciliation during the Committee's consideration of the item dealing with the United Nations Decade of International Law, which included the question of the peaceful settlement of disputes.

7. It was so decided.

8. Mr. ROSENSTOCK (United States of America) said that, since the Committee would be considering the development and strengthening of good-neighbourliness between States on 19 November, he was not convinced that the Committee's decision that the Subcommittee on Good-Neighbourliness should begin its work on 1 October would help the Subcommittee achieve results that would be acceptable to all. The Committee should therefore wait a little before deciding on the date on which the Subcommittee would start its work.

9. Mrs. SILVERA (Cuba) said that the Subcommittee should begin its work on the appointed date, since the question of good-neighbourly relations had already been on the Committee's agenda for a long time and a conclusion on the substance of that question should be reached as soon as possible.

10. Mr. WOOD (United Kingdom) said that there was good reason to question the usefulness of convening the Subcommittee on Good-Neighbourliness and to reconsider the date on which it should begin its work. He therefore proposed that the Chairman should solicit the views of the members of the Committee for another day or two on that procedural aspect of the consideration of the matter.

11. The CHAIRMAN said that consultations were already in progress and he was convinced that the Vice-Chairman would take account of the views that had just been expressed, and that a conclusion on the best way to proceed would be taken before the end of the week. He therefore encouraged the Vice-Chairman to continue his consultations.

12. Mr. CALERO-RODRIGUES (Brazil) said that he was not convinced of the correctness of the Chairman's remark that, since the International Law Commission had completed the preparation of three sets of draft articles, the consideration of its report should take more time than usual. While the draft articles on jurisdictional immunity adopted by the Commission during the second reading would certainly have to be considered in detail, the draft articles on international watercourses and on the draft Code of crimes had been adopted during the first reading and the text of those draft articles had

(Mr. Calero-Rodrigues, Brazil)

been sent to Governments, which had been invited to submit their observations in writing before the end of 1992. The Commission was still awaiting those written observations, and it did not seem useful for the Committee to hold a long debate on those two sets of draft articles at its current session. On the other hand, the question of international liability for injurious consequences arising out of acts not prohibited by international law called for detailed consideration by the Committee, from which the Commission expected guidelines on issues on which there were still differences of opinion, particularly the scope of the subject.

13. The CHAIRMAN said that the views of the representative of Brazil would be taken into consideration in the conduct of the Committee's work.

AGENDA ITEM 126: PROGRESSIVE DEVELOPMENT OF THE PRINCIPLES AND NORMS OF INTERNATIONAL LAW RELATING TO THE NEW INTERNATIONAL ECONOMIC ORDER (A/46/352 and Add.1)

14. The CHAIRMAN recalled that in the two most recent resolutions which it had adopted on the subject (43/162 and 44/30), the General Assembly had recommended that the Sixth Committee should make a final decision on the question of the appropriate forum within its framework which would undertake the task of completing the elaboration of the process of codification and progressive development of the principles and norms of international law relating to the new international economic order. He invited the Committee to bear that recommendation in mind and expressed the hope that the Committee could either make a final decision on that item or defer its consideration until such a decision could be taken.

15. Mr. MBURI (United Republic of Tanzania) observed that for a very long time the developing countries had been calling for a new international economic arrangement, since the existing international instruments had failed to foster international economic cooperation and to bridge the gap between developed and developing countries, which had continued to widen. Lack of political will on the part of the major Western Powers lay behind the failure of persistent attempts to change the current order. The call for a new international economic order was no more than a call for democratization of international economic relations which those Powers had been urging upon the developing countries.

16. The analytical study submitted by the United Nations Institute for Training and Research (UNITAR) offered a valuable source of material for tackling the subject. Failure to make a final decision on how to deal with the subject had not been due to a lack of ideas.

17. His delegation had previously stated that an open-ended working group or some other kind of forum within the Sixth Committee would be the appropriate forum to undertake the task of completing the elaboration of the process of codification and progressive development of the principles and norms of

(Mr. Mburi, United Republic of Tanzania)

international law relating to the new international economic order. It rejected the argument advanced in the past that the time was not yet ripe to complete such an elaboration. On the contrary, it was time for the Sixth Committee to take a decision on the matter or to look for an alternative way, since it could not get rid of the item altogether through postponements. Moreover, in view of the rationalization of the procedures of the Organization, the Committee could not keep an item on the agenda of the General Assembly and attempt to make it disappear through reforms or lack of political will by States to discuss it. The Committee should therefore take a final decision at the current session.

18. There were two additional reasons why the item should be considered. Firstly, the time was past when the diversity of political systems made it difficult to draw up a strategy for seeking ways in which international law could contribute to the establishment of the new international economic order. Secondly, the Committee could not wait for better rules to evolve by themselves, because State practice had itself shown that it was not possible to proceed in that way.

19. The Committee should start with the principles already accepted as law and then attempt to clarify the norms that were still unclear. There was good ground to begin forthwith on the accepted premise that economic imbalances existed and that broad principles had already been identified by UNITAR. The Committee should also encourage cooperation between the forum which would deal with the subject in the Committee and any other legal body that was dealing with similar projects.

20. Mr. CALERO-RODRIGUES (Brazil) said that the item on the progressive development of the principles and norms of international law relating to the new international economic order, which had been on the Committee's agenda since 1976, was one of those items that seemed to be ill-fated. What remained to be done, however, was simply to decide which would be the appropriate forum within the framework of the Sixth Committee to complete the elaboration of the process of codification and progressive development of the principles and norms in question. It did not seem to be a transcendental question. Two possibilities existed: either to create a subsidiary body to work intersessionally, or to entrust the task to a working group of the Sixth Committee. An intersessional body would be the ideal choice, but on account of the financial implications the Committee should probably content itself with a working group, which could start meeting at the following session.

21. The task would not be easy: while it was recognized that the current international economic order was far from satisfactory, it was still not clear what the new order should be. It would be an impossible task to try to cover in a single document all the different aspects of a new, fairer and more equitable order. Nevertheless, there were general principles that could already guide the work to be undertaken sectorally. That was a reasonable

(Mr. Calero-Rodrigues, Brazil)

undertaking, within the capabilities of a working group, the more so when the UNITAR study provided a solid basis for the work. His delegation urged the Committee not to delay any further the process of codification and progressive development, which might make a significant contribution to the United Nations Decade of International Law.

The meeting rose at 11 a.m.